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May 3, 2023

VIA ECF

Hon. Andrew E. Krause
United States Magistrate Judge
The Hon. Charles L. Brieant Jr.
Federal Building and United States Courthouse
300 Quarropas St.
White Plains, NY 10601-4150

Re: ***Cap 111 Enterprises LLC v. Manhattan Beer Distributors, LLC;***
Case No. 7:22-cv-01408-CS-AEK

Dear Judge Krause:

We write on behalf of defendants Manhattan Beer Distributors, LLC, Simon Bergson and Michael McCarthy, with Plaintiffs' consent, to apprise the Court on the status of the ESI protocol negotiated by the parties in this action (the "ESI Protocol").

At the parties' last appearance before the Court on April 24, 2023, the parties advised the Court that several disagreements remained with respect to the ESI Protocol. The Court directed the parties to submit a proposed ESI Protocol by May 3, 2023, noting any provisions still in dispute, and to file letters regarding such outstanding disputes by May 4, 2024. We are happy to report that all outstanding disputes regarding the terms of the ESI Protocol have been resolved by the parties since the April 24 appearance. Attached as Exhibit A is the form of ESI Protocol agreed upon by the parties.

We note, however, that the attached form of ESI Protocol has not been finalized or signed by the parties because it contains a Section I(3) (in which the parties agree to identify the initial ESI sources to be collected for the parties' respective document productions) and a Section I(5) (in which the parties similarly agree to identify third parties with relevant ESI), and the parties are still in the process of finalizing the descriptions of those sources. As a result, the parties

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jointly request that the Court refrain from so-ordering the ESI Protocol until the parties submit a final ESI Protocol with the information in Section I(3) filled in, which the parties will do shortly.

Respectfully yours,

/s/ Eric J. Przybylko

Eric J. Przybylko

cc: Wittels McInturff Palikovic